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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,131	07/08/2003	Tatsuo Nishizawa	0038-0415P	6009
2292	7590	08/30/2006	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			LE, MICHAEL	
			ART UNIT	PAPER NUMBER
			2163	

DATE MAILED: 08/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/614,131		NISHIZAWA, TATSUO	
	Examiner		Art Unit	
	Michael Le		2163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Summary and Status of Claims

1. This Office Action is in response to Applicant's reply filed June 21, 2006.
2. Claims 1-3 are cancelled.
3. Claim 4 is pending.
4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hay et al. (US Patent Pub 2002/0184189) of record, in view of Wiser et al. (US Patent 6,385,596) of record.
5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

6. **Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hay et al. (US Patent Pub 2002/0184189) of record, hereinafter "Hay", in view of Wiser et al. (US Patent 6,385,596) of record, hereinafter "Wiser".**
7. Hay discloses a system for delivering digital books, comprising:
 - a. a plurality of contents servers being connected to a network (Hay: Fig. 1B), said contents servers storing digital audio data of digital books, which can be played back as voice (Hay: para. 0013; para. 0180, lines 8-12; para. 0185, lines 1-16);
 - b. a database server being connected to the network (Hay: Fig. 1B), said database server having a book database storing search data of the digital books, which include addresses of the digital books in said contents servers and which can be searched on the

basis of book information including names of authors and titles (Hay: para. 0113, lines 4-5, 20-23, 27-31); and

c. a terminal equipment being connected to the network (Hay: Fig. 1B), said terminal equipment including:

i. searching means for searching the search data of an object digital book on the basis of the book information thereof (Hay: para. 0113, lines 4-5, 20-23; para. 0185, lines 1-16); and

ii. playback means for communicating with the contents server including the digital audio data of the object digital book on the basis of the search data searched by said searching means (Hay: para. 0113, lines 4-5, 20-23), downloading the digital audio data of the object digital book from the contents server and playing back the digital audio data as voice (Hay: para. 0113, lines 36-40; para. 0180, lines 8-12; para. 0185, lines 1-16; para. 0190, lines 4-6).

8. Hay also discloses a database for storing data about the electronic books (Hay: para. 0113, lines 27-31). Hay further discloses digital data storage capable of storing the logs (Hay: Fig. 1B, element 50).

9. Hay does not expressly disclose storing logs in a log database of a database server on predetermined time intervals, wherein the logs contain time of downloading digital audio data of digital books from the content servers and the digital audio data downloaded. Hay does disclose having a library which provides a useful record (log) of all the books that have been installed (downloaded) on the computer (terminal equipment) (Hay: para. 0091, 1-8) and to store other

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information about the electronic books such as an automatic date and time information of when the user has completed the book (Hay: para. 0093, lines 1-10).

10. Wiser discloses logging purchases of digital audio data and storing the logs in a database (Wiser: col. 18, lines 23-31). Wiser further discloses uploading a log periodically (predetermined time intervals) to a media licensing center (database server) (Col. 18, lines 31-33). Wiser further discloses that the logs contain entries of when a media data file is downloaded, timestamps, track title, artist name (author), etc (Wiser: col. 20, lines 35-46).

11. Hay and Wiser are analogous art because they are from the same field of endeavor of remote distribution of digital data.

12. At the time of the invention it would have been obvious to a person of ordinary skill in the art to modify the system of Hay by adding storing logs in a log database of a database server on predetermined time intervals, wherein the logs contain time of downloading digital audio data of digital books from the content servers and the digital audio data downloaded, as taught by Wiser.

13. The motivation for doing so would have been because logging enables a merchant to keep track of what media has been sold and allows the merchant to accurately report to a rights agent for copyright notification and billing purposes (Wiser: col. 18, lines 25-28).

Response to Amendment

Drawings

14. Applicant's amendment to the drawings to address missing references in the Specification and poor quality drawings is acknowledged. Consequently, objection to the drawings is withdrawn.

Specification

15. Applicant's amendment to the Title, Abstract and Specification to address informalities is acknowledged. Consequently, objection to the specification is withdrawn.

Objection to claims 2 and 4 for Minor Informalities

16. Claim 2 is cancelled rendering the objection to it moot.

17. Applicant's amendment to claim 4 to address the minor informalities is acknowledged. Consequently, the objection to claim 4 is withdrawn.

Response to Arguments

Rejection of claims 1-3 under 35 U.S.C. 102(e)

18. Claims 1-3 are cancelled rendering the rejection of them under 35 U.S.C. 102(e) moot.

Rejection of claim 4 under 35 U.S.C. 103(a)

19. Applicant's arguments in regards to the rejections to claim 4 under 35 U.S.C. 103(a), have been fully considered but they are not persuasive. Applicant alleges that Hay et al. (US

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Patent Pub 2002/0184189) hereinafter “Hay” and Wiser et al. (US Patent 6,385,596) hereinafter “Wiser”, individually or in combination, fail to suggest “terminal equipment further includes: log storing means for storing time of downloading digital audio data of digital books from said contents servers and the digital audio data downloaded as logs; and log transmission means for transmitting logs from said log storing means to said database server on predetermined time intervals, and said database server further including a log database storing processed log data transmitted from said terminal equipment” (Page 8 of the Remarks). The Examiner respectfully disagrees.

20. Hay also discloses a database for storing data about the electronic books (Hay: para. 0113, lines 27-31). Hay further discloses digital data storage capable of storing the logs (Hay: Fig. 1B, element 50). Hay does disclose having a library which provides a useful record (log) of all the books that have been installed (downloaded) on the computer (terminal equipment) (Hay: para. 0091, 1-8) and to store other information about the electronic books such as an automatic date and time information of when the user has completed the book (Hay: para. 0093, lines 1-10). Wiser discloses logging purchases of digital audio data and storing the logs in a database (Wiser: col. 18, lines 23-31). Wiser also discloses uploading a log periodically (predetermined time intervals) to a media licensing center (database server) (Col. 18, lines 31-33). Wiser further discloses that the logs contain entries of when a media data file is downloaded, timestamps, track title, artist name (author), etc (Wiser: col. 20, lines 35-46). In combination, Hay and Wiser disclose a log storing means (Hay: Fig. 1B, element 50) for storing time of downloading digital audio data of digital books from said contents servers (Hay: para. 0091, lines 1-8; para. 0093, lines 1-10) and the digital audio data downloaded as logs (Hay: para.0091, lines 1-8); and log

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transmission means for transmitting logs from said log storing means to said database server on predetermined time intervals (Wiser: col. 18, lines 31-33; col. 20, lines 35-46), and said database server further including a log database storing processed log data transmitted from said terminal equipment (Wiser: col. 18, lines 23-31; Hay: Fig. 1B, element 50). Thus, the combination of Hay and Wiser clearly suggests the aforementioned limitations.

21. Consequently, the rejection to claim 4 under 35 U.S.C. 103(a) is maintained.

Conclusion

22. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

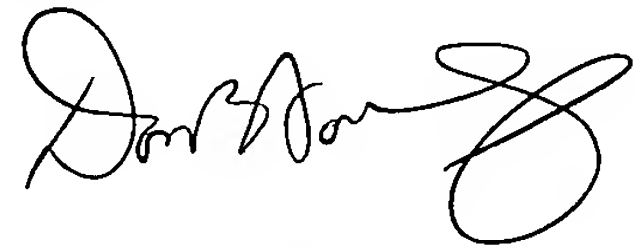
23. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Le whose telephone number is 571-272-7970. The examiner can normally be reached on Mon-Thurs : 9:30am-6pm, Fri: 8am-4:30pm.

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25. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571-272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

26. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DON WONG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Michael Le
Art Unit 2163
August 24, 2006